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# Racial Discrimination in Housing

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**A Report on an Audit  
conducted by the  
FAIR HOUSING PROGRAM  
of the  
MARIN HOUSING CENTER**

88 Belvedere Street, Suite A-1  
San Rafael, CA 94901

January 1994



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# Foreward

Discrimination in rental housing against persons because of race has been illegal in California since 1968, and in our nation since 1866. This audit was undertaken to gain an indication of the extent to which non-Caucasian persons experience discrimination in seeking rental housing in Marin County.

It is hoped that the results of this audit and the recommendations contained herein will stimulate a cooperative effort by all segments of the Marin community to eliminate discrimination against persons by virtue of their race in the housing market.

The audit was planned and carried out by Nancy Kenyon, Director of the Fair Housing Program, Marin Housing Center.



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# Race Discrimination Audit Report

## I. Introduction

This report presents results of an audit for race discrimination in apartment rentals in Marin County, California. The audit was conducted on November 11, 12, and 13, 1993.

### **THE FAIR HOUSING PROGRAM**

The Fair Housing Program of the Marin Housing Center is a County-supported program designed to counter illegal discrimination and educate Marin tenants, managers and property owners as to their rights and responsibilities under State and Federal Fair Housing Laws. The Program counsels discrimination complainants, and offers mediation, investigation and referrals to attorneys, the California Department of Fair Employment and Housing (DFEH), or the United States Department of Housing and Urban Development (HUD). Program staff also work closely with the Marin Association of Realtors and the Marin Income Property Association to provide information and training for property owners, real estate agents, property and apartment managers on discrimination issues.

In 1992 to 1993, the Program received 253 housing discrimination complaints. Of these, 30, or 12% of the total, were for race discrimination. We believe this represents only a portion of the incidence of discrimination against people of color in Marin County, as many persons who experience discrimination: (1) do not know where to seek assistance, (2) are not able to pursue a complaint, or (3) do not know they have been discriminated against.

This discrimination, coupled with high rents, low vacancy rates, and a rental process with few protections for the tenant, has exacerbated the concentration of people of color in certain areas of Marin, resulting



in fewer interracial neighborhoods. 1990 Census data indicates that while overall minority representation in Marin County is 15.8%, minorities represent 54% of the population in the Canal area of San Rafael and 63% of the population in Marin City. By contrast, minority representation is 4.5% in Larkspur, 10.4% in Novato, and .02% in Ross.

As in the rest of the state, the minority population is growing rapidly in Marin County. Between 1980 and 1990 censuses, African-Americans increased by 49.2%, Asians by 74%, and Hispanics by 94.8%. These people cannot continue to be concentrated in Marin City or the Canal area of San Rafael without negative repercussions for these communities. Fairness demands that they have access to all of Marin's neighborhoods.

## **LEGAL BACKGROUND**

Housing discrimination based on race, color, religion, sex (gender), national origin, handicap and familial status (the presence of children in the family) is illegal under provisions of the Civil Rights Act of 1866 and Title VIII of the Fair Housing Act of 1968, as amended in 1988.

The 1968 Fair Housing Act, as amended in 1988, specifically states it is prohibited to:

1. Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale of a rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, disability or familial status.
2. To discriminate against any person in the terms, conditions, or privileges or sale or rental of a dwelling, or in the provision of services or facilities in connection there-with, because of race, color, religion, sex, national origin, disability or familial status.



3. To make print or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates a preference, limitation, or discrimination based on race, color, religion, sex, national origin, disability or familial status, or an intention to make any such preference, limitation, or discrimination.

4. To represent to any person because of race, color, religion, sex, national origin, disability or familial status that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

5. For profit, to induce or attempt to induce any person to sell or rent any dwelling based on the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, disability or familial status.

While the 1968 federal law exempts individual homeowners and certain groups, the 1866 Civil Rights Act prohibits all racial discrimination.

The Unruh Civil Rights Act in California includes protection for the same categories as the federal law, and also prohibits discrimination based on marital status and other arbitrary forms, such as age, source of income and sexual orientation.

## II. Goals and Methodology

### WHAT IS AN AUDIT?

One of the major ways to determine compliance or non-compliance with these laws is through the fair housing audit. A fair housing audit is a controlled measurement of the difference in quality, content and quantity of information and services accorded paired customers (testers) by members of the real estate industry. An audit differs from a complaint-driven test in that it gives a "picture" of behavior of real estate professionals in a given market during a certain time period. Audits are routinely conducted by public governmental bodies and private agencies throughout the country as an educational and enforcement tool.

### AUDIT GOALS

The goals for the race discrimination audit conducted by the Fair Housing Program in November, 1993 were several.

Factually, the audit was conducted to identify discriminatory practices at randomly selected locations, thus providing an indication of the extent of the race discrimination in Marin County's housing rental market. This data would be used 1) to bring violations to the attention of property owners and managers with an end towards elimination of such practices, and 2) educationally, to arouse public interest through education about the degree of discrimination facing minorities looking for housing in our County. New educational programs and increased training for owners and managers were viewed as possible results.

The audit would also serve to identify property owners and managers who do not discriminate so that their behavior could serve as a role model for others.

## **AUDIT SCOPE**

Three areas of the County were selected for the audit: 1) North - Novato and vicinity; 2) Central - Central Marin cities such as San Anselmo, Fairfax, Greenbrae, and Larkspur, and, 3) South - Southern Marin areas such as Sausalito, Tiburon, Strawberry and Mill Valley. Specifically excluded from the audit were Marin City and the Canal area of San Rafael because of their high minority representation.

## **AUDIT METHODOLOGY**

### **Sampling Techniques**

Apartment complexes, duplexes-sixplexes and condominiums were selected at random from advertisements in the Classified Advertising section of the MARIN INDEPENDENT JOURNAL, Marin County's daily newspaper, in the week preceding the audit. Ads offering one and two bedroom units in the selected areas were telephoned by audit staff to identify those units which were available, and to make appointments.

### **Matched Audit Teams**

Four teams of testers, four African-American and four Caucasian, participated in the audit. Testers are trained individuals who simulate the conditions of applicants for a rental unit by visiting the complex and presenting credentials supplied by audit supervisors. Testers used in this audit received special training. Most had completed previous tests for the Fair Housing Program.

Testers were sent in teams of two. To minimize the possibility that the reason for differential treatment was other than race, the testers were between the ages of 23 and 45, and neatly but informally dressed. Each tester was assigned a similar profile of a married couple with no children or pets, fully employed with incomes equaling 3 to 3.25 times the rent stated in the advertisement.



## **Procedure of the Tests**

Each pair of testers, one African-American and one Caucasian, made 8 site visits on the designated audit days, visiting the sites within 20 to 30 minutes of each other.

When visiting the unit, testers asked about the availability of apartments and the rental terms. If possible, they inspected one or more units. Testers were instructed to pursue the interview to the application stage, but not to complete an application.

Immediately upon leaving the complex, each tester filled out a Tester Report Form designed for the audit. The form asked for information on the nature of the complex, the name, position and demeanor of the individual showing the unit(s), the number and availability of apartments shown, rental terms and tenant qualifications required by the manager or landlord.

In addition to the written report, each tester was personally debriefed by an audit supervisor upon completion of the tests.

## **Analysis of the Data**

The audit data was analyzed by the Fair Housing Program Director and an outside consultant, formerly an Equal Opportunity Specialist at HUD. The analysts independently filled out a data analysis and rating chart designed for the audit to determine if discrimination was evident.

In assessing for differential treatment, audit analysts looked at the following area:

1. Access and availability
2. Rental terms
3. Demeanor and salespersonship of manager/owner
4. Statements regarding race

In addition, at the completion of the site tests, the Fair Housing Program checked all sites tested for previous complaints or allegations of discrimination.

An overall rating was then given to each complex checked according to the following categories:

<u>Rating</u>	<u>Description</u>
#1	Race discrimination clearly indicated
#2	Differential treatment favoring Caucasian checker; further investigation necessary
#3	No Discrimination indicated

If it was determined by the two analysts that there was definite evidence of discrimination or differential treatment, this was given the rating of #1. If the Caucasian tester was favored, but not strongly enough to be clear evidence of discrimination, this was given the rating #2. Rating #3 was given to those checks where no discrimination or differential treatment between the two checkers was indicated.

### III. Results and Conclusions

#### SUMMARY OF STATISTICS

Of one and two bedroom rental units advertised in the MARIN INDEPENDENT JOURNAL, 32 units were randomly selected by audit supervisors for the North, Central and South County areas and determined by telephone to be available for site visits on November 11, 12 and 13, 1993. Of these 32 sites, appointments were made and completed for 31 locations, representing more than 1,472 units of housing. Sixty-four individual site visit tests were conducted. One test was incomplete and voided when one of the matched testers could not locate an individual to show the unit.

In fourteen of the tests, or 45%, no discrimination on the basis of race was indicated through the site visits. Nine of the tests, or 29%, gave clear evidence of discrimination on the basis of race. In the remaining eight tests, or 26%, differential treatment favoring the Caucasian tester occurred.

The table below breaks down these results by area and number of units represented:

**TABLE 1**

**NORTH — NOVATO AND VICINITY**

	# of Tests (% of Area Total)	# of Units represented
Clear Discrimination	0	0
Differential Treatment	2 (29%)	3
No Discrimination	5 (71%)	366
AREA TOTAL TESTED	7 (100%)	369

**CENTRAL — SAN ANSELMO, FAIRFAX, LARKSPUR,  
GREENBRAE, CORTE MADERA, KENTFIELD**

Clear Discrimination	4 (22%)	122
Differential Treatment	5 (28%)	183
No Discrimination	9 (50%)	556
AREA TOTAL TESTED	18 (100%)	861

**SOUTH — MILL VALLEY, SAUSALITO, TIBURON**

Clear Discrimination	5 (83%)	222
Differential Treatment	1 (17%)	20
No Discrimination	0	0
AREA TOTAL TESTED	6 (100%)	242

**TOTAL**

Clear Discrimination	9 (29%)	344 (23%)
Differential Treatment	8 (26%)	206 (14%)
No Discrimination	14 (45%)	922 (63%)
TOTAL TESTED	31 (100%)	1472 (100%)



## **TYPES OF DISCRIMINATION OR DIFFERENTIAL TREATMENT**

Discriminatory treatment towards African-American testers indicated by the audit data was exhibited in several different ways.

### **1. Access and Availability**

The number of units available to the Caucasian tester versus the African-American tester was different in three of the tests. In each case, the Caucasian tester was told about more units, either currently available, or becoming available soon. In a fourth test, the Caucasian tester was given a Multiple Listing Service (MLS) printout of additional available units shown by the property manager, while no such listing was provided to the African-American tester.

In another test, the African-American tester was told that the unit would be available in one week, while the Caucasian tester was told the same unit was available now. In one test, the African-American tester arrived timely for her 1:00 pm appointment. The lights were on in the unit and the tester knocked on the door; no one answered. She knocked loudly on the other two doors to the unit with no response. After waiting 15 minutes in front of the unit, the tester left and sat in her car within viewing distance of the unit. A young Caucasian male came out of the unit shortly thereafter and sat in his truck until the arrival of the Caucasian tester, whom he proceeded to show through the unit.

### **2. Rental Terms**

Caucasian testers were also favored through more desirable rental terms. Differential rental terms or conditions offered included such items as security deposit, type of rental agreement, payment methods, application deposit and promotional discount. At four complexes, the Caucasian testers were offered applications to rent while the African-American testers had to request them. In another test, after asking several times about the application process, the African-American tester was told to mail in pertinent information, but had to ask three times for the address.

Three Caucasian testers were offered a lease, which is more desirable financially and for security, while the counterpart African-American testers were not. At two sites, the African-American testers were told that the move-in costs had to be paid with a cashier's check or cash, not a personal check, whereas the Caucasian counterpart testers were not told this was a requirement. In another test, the African-American tester was quoted a higher security deposit; in another a higher credit check fee.

One Caucasian tester was told she would not forfeit the deposit to hold the unit if she changed her mind within three days of placing the deposit. The African-American tester was told of the deposit but not that it was refundable. In another test, the manager offered to accept a partial deposit from the Caucasian tester, while no such offer was made to the African-American tester. Another Caucasian tester was offered a special half-off rent on a unit, while this special was not offered to the African-American tester.

### 3. Demeanor and Salespersonship of Owner or Manager

The manner in which an owner or manager shows units for rent is often an important indication of their interest in the person as a tenant, or conversely, their lack of interest, extending to an attempt to discourage them from applying.

At one site visit, the owner encouraged the Caucasian tester to apply, stating that she had not received any completed applications; this was not mentioned to the African-American tester. In two tests, the Caucasian testers received follow up calls from the owner or manager, whereas their counterpart African-American testers received no callback.

In two tests, the African-American testers reported that the managers diverted their comments to Caucasian testers who had inadvertently arrived during their site visit, addressing their remarks exclusively to the Caucasians.

#### **4. Discriminatory Statements**

No blatant discriminatory remarks were made during any of the 31 site visits. At one complex, an unsolicited statement was made to the Caucasian tester where the owner stated she would “rather rent to a person like you” and strongly encouraged the Caucasian tester to act quickly, offering to show the unit to the tester’s husband that same evening. No such offer was made to the African-American tester.

### **AUDIT SITES WITH PREVIOUS COMPLAINT RECORDS**

Fair Housing Program records indicate that at 14 of the 31 complexes, or 45%, the Fair Housing Program had received previous complaints of discrimination and had provided education of fair housing laws. At over half (57%) of these sites, no evidence of discrimination was found, an indication that our educational efforts are bearing fruit.

### **MINORITY APARTMENT OWNERS/MANAGERS**

Seven of the rental units, at complexes representing 236 units of housing, were owned or managed by minorities. In 72% of the sites tested owned or managed by minorities, there was no discrimination or differential treatment. Clear evidence of discrimination was found in 14% of the sites tested, while indications of differential treatment occurred in another 14% of these sites owned or managed by minorities.

### **OTHER INDICES OF DISCRIMINATION**

#### **1. Application Forms**

At thirteen, or 42% of the total sites tested, application forms distributed asked prohibited questions. All thirteen asked for the ages of the applicant’s cohabitants. California law states that a landlord can ask the age of an applicant only to determine that he or she is of legal age (18) and thus able to enter into legal contract.



At nine of the thirteen sites, the application asked for the marital status of the applicant, the name of the applicant's spouse or the relationship of cohabitants. Under California's Unruh Act, marital status cannot be used as a criterion in assessing applicants for rental housing.

At one of the thirteen sites, the application asked for the name of the applicant's physician. Although this was asked of all applicants, it indicates an attempt to discover whether the applicant has a disability. Under federal and state laws, disability cannot be used as a criterion in assessing applicants for rental housing and a landlord cannot apply different terms or conditions of dwelling rental based on disability.

## **2. Statements Indicating Discrimination Against Families with Children**

At three of the thirty-one sites, unsolicited statements regarding families with children or the presence of children in the family were made to testers. At one site, the assistant manager told the tester that there were not many children in the 455-unit complex. At another site, the manager asserted that families with children were limited to the lower floor of the complex only. At a third site, the manager of a 20-unit building declared that the tenants residing in the complex were either retired persons or young working couples.

## **CONCLUSIONS**

### **AUDIT LIMITATIONS**

This audit measured only the degree of discrimination an individual would encounter at the initial housing search stage. Because testers accepted applications but did not fill them out or complete the application process, sites which hand out applications freely but discriminate later in the tenant selection process were not identified by this audit.

## EXTENT OF DISCRIMINATION

Clear evidence of discrimination was found in 83% of the tests done in southern Marin, 22% of the tests in central Marin and in none of the tests in Novato (rating #1). Indications of differential treatment that require further investigation (rating #2) is difficult to measure statistically. Audit analysts used the assumption that 50% of the tests that received a #2 rating would result in a finding of discrimination after additional investigation. Using that assumption, we added together rating #1 and #2 to conclude that, in the tests conducted:

- a prospective tenant of color seeking rental housing in southern Marin can expect to encounter race discrimination 92% of the time.
- a person of color seeking a rental housing in central Marin can expect to find encounter race discrimination 36% of the time.
- In Novato, a person of color seeking rental housing can expect to encounter race discrimination 14% of the time.

Overall, if half the tests that received a #2 rating results in race discrimination after further investigation, a prospective tenant of color seeking a rental in Marin County can expect to find discrimination 42% of the time—**or in two out of every five sites visited.**

A national fair housing audit sponsored by the U.S. Department of Housing and Urban Development (HUD) found that African-Americans encounter discrimination slightly more than half of the time. Specifically, the national audit on racial discrimination found that discrimination occurs in 56% of encounters for African-American renters. The incidence of racial discrimination found in Marin County is less than that found at the national level. However, African-American renters in Marin County experience racial discrimination at a significant level that impedes their ability to obtain housing of their choice.

## **FORMS OF DISCRIMINATORY PRACTICES**

The discrimination uncovered was of the subtle rather than blatant variety. Excepting the test where the owner refused to answer the door, no owner denied an African-American tester the opportunity to see an advertised unit. No outright discriminatory remarks were made in any of the tests. The discrimination appeared in a more subtle form, as in fewer units being shown or mentioned to the African-American testers, differing rental/financial terms or requirements, or a demeanor that was more encouraging to the Caucasian testers.

## **AFFIRMATIVE FINDINGS**

- In 45% of the sites tested, there was no discrimination or differential treatment found at the pre-application stage. Central Marin scored highest in this rating, with half of the tested sites receiving a #3 rating of no discrimination.
- Findings indicate that African-Americans are less likely to encounter rental housing discrimination at properties where a minority owner or manager is involved.
- The audit results indicate that the Fair Housing Program's past educational efforts at complexes with previous records of discrimination appear to have contributed to a lower degree of discrimination when tested during the audit.



# IV. Recommendations

As the cost of single-family homes remains high in Marin County, more families are forced into rental units for longer periods of their lives. Furthermore, as the number of people of color increases, more people are concentrated in historically minority areas of Marin, compounding the provision of services in already densely populated areas.

Persons of color must have access to all of Marin's communities. Given the results of the audit and Fair Housing complaint statistics, it is clear that some rental owners and managers do not wish to rent to persons of color. As a result, they provide different information and services and may discourage these families from applying.

Education must be combined with a strong public stance and increased enforcement if race discrimination in our County is to be combatted. Specific recommendations include:

1. Notification and education of property owners where evidence of discrimination or differential treatment has been found. Specific suggestions to change illegal policies and practices will be made. Training in fair housing law will be offered to these owners, their managers and their agents.
2. Notification and commendation of those property owners where equal provision of services and information was provided.
3. Funding to retest audit sites where there was an indication of race or child discrimination. When financially possible, testing should be conducted through the application stage, where the majority of discrimination occurs.
4. Seek official recognition of the problem of housing discrimination from County politicians and the County real estate industry through resolutions, attendance at a press conference, etc. The County Board of Supervisors, town Councils, the Marin

Association of Realtors, Marin Income Property Association and Marin Property Owners Association should meet to discuss the problem and potential solutions. They would also be asked for a funding commitment to address housing discrimination. Dollars, not just words, are needed.

5. Identify or develop a data base of all rental complexes of two or more units, including condominiums complexes where units are allowed to be rented. The data base would allow for easier tracking of discrimination complaints, educational outreach to owners/managers, and future systemic auditing.

6. Conduct systemic testing of complexes for discrimination based on race and other protected classes, e.g. the disabled, families with children, ethnic minorities, both randomly and as a follow up to previous complaints. With proper funding, a goal to checking a majority of rental housing complexes over a five year period would be recommended.

7. Work with the real estate industry to develop guidelines for a nondiscriminatory standard rental application and a brochure on good application procedures.

8. Increased outreach to the real estate industry for training on fair housing laws. The Fair Housing Program currently conducts an annual seminar on Fair Housing Law and Practice at minimal cost. This seminar should be supported by public officials and marketed strongly by the housing industry to its members.

9. Dissemination of the results of this audit to the media as an important educational tool for the housing industry, the general public and public officials. This in turn should lead to greater public recognition of the value of a strong Fair Housing enforcement program in Marin County.

10. Increased outreach to persons of color regarding their rights under fair housing law and the existence of a program to help them secure those rights.



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